

1 MATTHEW RODRIQUEZ
Acting Attorney General of California
2 ROBERT MCKIM BELL
Supervising Deputy Attorney General
3 CLAUDIA MOREHEAD
Deputy Attorney General
4 State Bar No. 205340
California Department of Justice
5 300 South Spring Street, Suite 1702
Los Angeles, CA 90013
6 Telephone: (213) 269-6482
Facsimile: (916) 731-2117
7 *Attorneys for Complainant*

8
9 **BEFORE THE**
10 **MEDICAL BOARD OF CALIFORNIA**
11 **DEPARTMENT OF CONSUMER AFFAIRS**
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 800-2018-043459

14 **MICHAEL K. OBENG, M.D.**
15 **435 North Roxbury Drive, Suite 205**
Beverly Hills, CA 90210

A C C U S A T I O N

16 **Physician's and Surgeon's Certificate**
17 **No. A 107087,**

Respondent.

18
19 **PARTIES**

20 1. William Prasifka (Complainant) brings this Accusation solely in his official capacity
21 as the Executive Director of the Medical Board of California, Department of Consumer Affairs
22 (Board).

23 2. On or about March 27, 2009, the Medical Board issued Physician's and Surgeon's
24 Certificate Number A 107087 to Michael K. Obeng, M.D. (Respondent). That license was in full
25 force and effect at all times relevant to the charges brought herein and will expire on March 31,
26 2023, unless renewed.

27 3. Respondent owns MIKO Plastic Surgery, MIKO Surgery Center, and MIKO
28 Anesthesia Group.

JURISDICTION

4. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

5. Section 2004 of the Code states:

The board shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a panel or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

(f) Approving undergraduate and graduate medical education programs.

(g) Approving clinical clerkship and special programs and hospitals for the programs in subdivision (f).

(h) Issuing licenses and certificates under the board's jurisdiction.

(i) Administering the board's continuing medical education program.

6. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. The board shall enforce and administer this article as to physician and surgeon certificate holders, including those who hold certificates that do not permit them to practice medicine, such as, but not limited to, retired, inactive, or disabled status certificate holders, and the board shall have all the powers granted in this chapter for these purposes including, but not limited to:

(a) Investigating complaints from the public, from other licensees, from health care facilities, or from the board that a physician and surgeon may be guilty of unprofessional conduct. The board shall investigate the circumstances underlying a report received pursuant to Section 805 or 805.01 within 30 days to determine if an interim suspension order or temporary restraining order should be issued. The board shall otherwise provide timely disposition of the reports received pursuant to Section 805 and Section 805.01.

(b) Investigating the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the

1 physician and surgeon or his or her professional liability insurer to pay an amount in
2 damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with
3 respect to any claim that injury or damage was proximately caused by the physician's
4 and surgeon's error, negligence, or omission.

5 (c) Investigating the nature and causes of injuries from cases which shall be
6 reported of a high number of judgments, settlements, or arbitration awards against a
7 physician and surgeon.

8 7. Section 2227 of the Code states:

9 (a) A licensee whose matter has been heard by an administrative law judge of
10 the Medical Quality Hearing Panel as designated in Section 11371 of the Government
11 Code, or whose default has been entered, and who is found guilty, or who has entered
12 into a stipulation for disciplinary action with the board, may, in accordance with the
13 provisions of this chapter:

14 (1) Have his or her license revoked upon order of the board.

15 (2) Have his or her right to practice suspended for a period not to exceed one
16 year upon order of the board.

17 (3) Be placed on probation and be required to pay the costs of probation
18 monitoring upon order of the board.

19 (4) Be publicly reprimanded by the board. The public reprimand may include a
20 requirement that the licensee complete relevant educational courses approved by the
21 board.

22 (5) Have any other action taken in relation to discipline as part of an order of
23 probation, as the board or an administrative law judge may deem proper.

24 (b) Any matter heard pursuant to subdivision (a), except for warning letters,
25 medical review or advisory conferences, professional competency examinations,
26 continuing education activities, and cost reimbursement associated therewith that are
27 agreed to with the board and successfully completed by the licensee, or other matters
28 made confidential or privileged by existing law, is deemed public, and shall be made
available to the public by the board pursuant to Section 803.1.

8. Section 2228 of the Code states:

The authority of the board or the California Board of Podiatric Medicine to
discipline a licensee by placing him or her on probation includes, but is not limited to,
the following:

(a) Requiring the licensee to obtain additional professional training and to pass
an examination upon the completion of the training. The examination may be written
or oral, or both, and may be a practical or clinical examination, or both, at the option
of the board or the administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by
one or more physicians and surgeons appointed by the board. If an examination is
ordered, the board shall receive and consider any other report of a complete

1 diagnostic examination given by one or more physicians and surgeons of the
2 licensee's choice.

3 (c) Restricting or limiting the extent, scope, or type of practice of the licensee,
4 including requiring notice to applicable patients that the licensee is unable to perform
5 the indicated treatment, where appropriate.

6 (d) Providing the option of alternative community service in cases other than
7 violations relating to quality of care.

8 **STATUTORY PROVISIONS**

9 9. Section 810 of the Code states:

10 (a) It shall constitute unprofessional conduct and grounds for disciplinary
11 action, including suspension or revocation of a license or certificate, for a health care
12 professional to do any of the following in connection with his or her professional
13 activities:

14 (1) Knowingly present or cause to be presented any false or fraudulent claim for
15 the payment of a loss under a contract of insurance.

16 (2) Knowingly prepare, make, or subscribe any writing, with intent to present or
17 use the same, or to allow it to be presented or used in support of any false or
18 fraudulent claim.

19 (b) It shall constitute cause for revocation or suspension of a license or
20 certificate for a health care professional to engage in any conduct prohibited under
21 Section 1871.4 of the Insurance Code or Section 549 or 550 of the Penal Code.

22 (c) (1) It shall constitute cause for automatic suspension of a license or
23 certificate issued pursuant to Chapter 4 (commencing with Section 1600), Chapter 5
24 (commencing with Section 2000), Chapter 6.6 (commencing with Section 2900),
25 Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with Section
26 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a licensee or
27 certificate holder has been convicted of any felony involving fraud committed by the
28 licensee or certificate holder in conjunction with providing benefits covered by
worker's compensation insurance, or has been convicted of any felony involving
Medi-Cal fraud committed by the licensee or certificate holder in conjunction with
the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program,
pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing
with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The
board shall convene a disciplinary hearing to determine whether or not the license or
certificate shall be suspended, revoked, or some other disposition shall be considered,
including, but not limited to, revocation with the opportunity to petition for
reinstatement, suspension, or other limitations on the license or certificate as the
board deems appropriate.

(2) It shall constitute cause for automatic suspension and for revocation of a
license or certificate issued pursuant to Chapter 4 (commencing with Section 1600),
Chapter 5 (commencing with Section 2000), Chapter 6.6 (commencing with Section
2900), Chapter 7 (commencing with Section 3000), or Chapter 9 (commencing with
Section 4000), or pursuant to the Chiropractic Act or the Osteopathic Act, if a
licensee or certificate holder has more than one conviction of any felony arising out
of separate prosecutions involving fraud committed by the licensee or certificate

holder in conjunction with providing benefits covered by worker's compensation insurance, or in conjunction with the Medi-Cal program, including the Denti-Cal element of the Medi-Cal program pursuant to Chapter 7 (commencing with Section 14000), or Chapter 8 (commencing with Section 14200), of Part 3 of Division 9 of the Welfare and Institutions Code. The board shall convene a disciplinary hearing to revoke the license or certificate and an order of revocation shall be issued unless the board finds mitigating circumstances to order some other disposition.

(3) It is the intent of the Legislature that paragraph (2) apply to a licensee or certificate holder who has one or more convictions prior to January 1, 2004, as provided in this subdivision.

(4) Nothing in this subdivision shall preclude a board from suspending or revoking a license or certificate pursuant to any other provision of law.

(5) "Board," as used in this subdivision, means the Dental Board of California, the Medical Board of California, the California Board of Podiatric Medicine, the Board of Psychology, the State Board of Optometry, the California State Board of Pharmacy, the Osteopathic Medical Board of California, and the State Board of Chiropractic Examiners.

(6) "More than one conviction," as used in this subdivision, means that the licensee or certificate holder has one or more convictions prior to January 1, 2004, and at least one conviction on or after that date, or the licensee or certificate holder has two or more convictions on or after January 1, 2004. However, a licensee or certificate holder who has one or more convictions prior to January 1, 2004, but who has no convictions and is currently licensed or holds a certificate after that date, does not have "more than one conviction" for the purposes of this subdivision.

(d) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

10. Section 2234 of the Code states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

(b) Gross negligence.

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but

1 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
2 licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

3 (d) Incompetence.

4 (e) The commission of any act involving dishonesty or corruption that is
5 substantially related to the qualifications, functions, or duties of a physician and
surgeon.

6 (f) Any action or conduct that would have warranted the denial of a certificate.

7 (g) The failure by a certificate holder, in the absence of good cause, to attend
8 and participate in an interview by the board. This subdivision shall only apply to a
certificate holder who is the subject of an investigation by the board.

9 11. Section 2261 of the Code states:

10 Knowingly making or signing any certificate or other document directly or
11 indirectly related to the practice of medicine or podiatry which falsely represents the
existence or nonexistence of a state of facts, constitutes unprofessional conduct.

12 12. Section 2266 of the Code states:

13 The failure of a physician and surgeon to maintain adequate and accurate
14 records relating to the provision of services to their patients constitutes unprofessional
conduct.

15 13. Section 2285 of the Code states:

16 The use of any fictitious, false, or assumed name, or any name other than his or
17 her own by a licensee either alone, in conjunction with a partnership or group, or as
the name of a professional corporation, in any public communication, advertisement,
18 sign, or announcement of his or her practice without a fictitious-name permit obtained
pursuant to Section 2415 constitutes unprofessional conduct. This section shall not
19 apply to the following:

20 (a) Licensees who are employed by a partnership, a group, or a professional
corporation that holds a fictitious name permit.

21 (b) Licensees who contract with, are employed by, or are on the staff of, any
22 clinic licensed by the State Department of Health Services under Chapter 1
(commencing with Section 1200) of Division 2 of the Health and Safety Code.

23 (c) An outpatient surgery setting granted a certificate of accreditation from an
24 accreditation agency approved by the medical board.

25 (d) Any medical school approved by the division or a faculty practice plan
connected with the medical school.

26 **REGULATORY PROVISIONS**

27 14. California Code of Regulations, Title 16, section 1344 states as follows:

28 (a) Unless a fictitious name permit is obtained pursuant to Section 2415 of the

code, the name of a professional corporation shall be restricted to the name or surname of one or more of the present prospective or former shareholders who are physicians or podiatrists, as the case may be, for a medical or podiatry corporation.

(b) When the applicant uses any fictitious, false or assumed name or any name other than the name or surname of one or more of the present, prospective or former shareholders, or any other words or names in addition to those of the shareholders, it shall obtain a permit pursuant to Section 2415 of the code. The fee required in Section 1352 shall accompany the fictitious name permit application.

(c) A professional corporation with a majority of physicians and surgeons as shareholders, officers and directors shall not use the designations "Podiatry Corporation" or "Podiatry Corp." A corporation with a majority of podiatrists as shareholders, officers and directors shall not use the designation "Medical Corporation" or "Medical Corp.."

15. California Code of Regulations, Title 16, section 1350.2 states in pertinent part:

...

(c) No licensed person shall render professional services using a fictitious, false or assumed name or any name other than his or her own unless and until a fictitious name permit has been issued by the division.

DEFINITIONS

16. Abdominoplasty refers to a procedure that flattens your abdomen by removing extra fat and skin and tightening muscles in your abdominal wall. This surgical procedure is also known as a "tummy tuck."

17. A dimpleplasty refers to cosmetic surgery used to create dimples on the cheeks or chin. Sutures are stitched inside of the mouth, ideally leaving no external scars and a natural-looking dimple after the healing process is completed.

18. Scar revision is plastic surgery performed to improve the condition or appearance of a scar.

19. A ventral hernia is a bulge of tissues through an opening or weakness within the abdominal wall muscles.

FACTUAL ALLEGATIONS

Initial Encounter and First Surgery

20. Patient No. 1¹ (also "Patient") was a 35-year-old female who was seen by Respondent

¹ Numbers are used in place of names to protect patient privacy.

1 for a consultation on October 21, 2016. According to the "Consultation and Medical
2 Questionnaire" contained in the medical chart (also "chart"), the Patient sought "Lipo abdominal,
3 belly button repair, scar revision abdominal." The Patient's prior surgeries were documented as
4 "hernia repair, lipo, tummy tuck, gallbladder removal, bladder lift, tubes tied, [illegible]." The
5 surgical procedures/plan was documented as "Abdominal/CT scan abdominal with contrast
6 needed."

7 21. A subsequent chart note contains a handwritten notation that states, "Please check for
8 ventral hernia" and "scar revision," along with the corresponding diagnosis and procedure codes,
9 and the Patient's insurance information. A verification of benefits form was completed for both
10 procedures.

11 22. On December 16, 2016, a physician not affiliated with Respondent conducted a pre-
12 surgical CT scan of the Patient. The scan uncovered "no evidence of anterior abdominal wall
13 hernia."

14 23. On December 21, 2016, the Patient was seen by a second non-affiliated physician for
15 a preoperative examination. The physician did not document any evidence of a ventral hernia.
16 However, the physician documented the preoperative status as "No contraindications to [Patient],
17 an immediate risk candidate proceeding with the anticipated elective procedure..." (Emphasis
18 added.)

19 24. The chart also included the following:

20 a. A signed, specific informed consent form² for "fat transfer procedures fat grafts
21 and injections," dated December 20, 2016. The form consisted of nine pages and contained
22 detailed information, including:

- 23 i.. A description of the procedure,
- 24 ii. Alternative treatments,
- 25 iii. Specific risks of fat transfer surgery,

26 _____
27 ² The specific informed consent forms appear to be pre-printed forms produced by the
28 American Society of Plastic Surgeons in 2009. The name of the procedure is printed in bold
lettering.

- 1 iv. General surgical risks,
- 2 v. An advisement that “most health insurance companies exclude coverage
- 3 for cosmetic surgical operations or any resulting complications,” and
- 4 vi. An advisement that the Patient is solely responsible for all fees related to
- 5 the cosmetic surgery.
- 6 b. A signed, specific informed consent for “abdominoplasty surgery,” dated
- 7 December 16, 2016. The form consisted of seven pages and contained detailed information,
- 8 including:
- 9 i. A description of the procedure,
- 10 ii. Alternative treatments,
- 11 iii. Specific risks of abdominoplasty surgery,
- 12 iv. General surgical risks, and
- 13 v. An advisement that “most health insurance companies exclude coverage
- 14 for cosmetic surgical operations or any resulting complications,” and
- 15 vi. An advisement that the Patient is solely responsible for all fees related to
- 16 the cosmetic surgery.
- 17 c. A signed, single page “shorter version”³ informed consent form for a “ventral
- 18 hernia,” dated December 16, 2016. The form was a single page and devoid of details regarding
- 19 the surgery, alternative treatments, and specific or general risks.
- 20 d. A signed “Plastic Surgery Revision Policy” that documents possible need for
- 21 additional procedures, dated December 16, 2016. The form places the patient on notice that
- 22 “there are limitations as to what cosmetic surgery can achieve.”
- 23 e. A medical bill for costs incurred at the MIKO Surgery Center directed to the
- 24 Patient’s insurance company. The total surgical center fees attributed to the hernia surgery were
- 25 \$45,586.00.

26 _____

27 ³ The “shorter version” informed consent form appears to be pre-printed forms produced

28 by the American Society of Plastic Surgeons in 2009. This generic form requires the provider to

handwrite the procedure.

1 f. A second medical bill for the MIKO Anesthesia Group for \$5,491.80 for
2 anesthesiologist charges attributed to the hernia surgery.

3 25. The chart, however, contained no document that provided the medical indication to
4 perform either a ventral hernia surgery or the scar revision procedure.

5 26. The chart is internally inconsistent with respect to the procedure that Respondent
6 actually performed.

7 Second Surgery

8 27. The Patient was next seen by Respondent in March 2017. The chart documents that a
9 dimpleplasty was scheduled for March 30, 2017, at 10:00 a.m.

10 28. A pre-surgical checklist indicates that the Patient executed the necessary consent
11 form for the dimpleplasty. However, the chart did not contain a specific dimpleplasty informed
12 consent form.

13 29. A MIKO Surgery Center form, dated March 31, 2017, documents the chief complaint
14 and present illness as "bilateral cheek lipoma," a diagnosis of "facial mass," and a treatment plan
15 of "excision of facial mass [illegible] complex closure."

16 30. The surgical report, dated March 31, 2017, documents the pre-operative and post-
17 operative diagnosis as "facial mass," and the procedure performed as "excision of facial mass
18 with complex closure." The surgical report only documented a unilateral procedure. According
19 to the report, the mass was a "large cyst/mass on the cheek that has been present for 2 years. It is
20 firm and mobile and feels like a lipoma." According to the surgical report, the mass was removed
21 through a 1.5 cm incision.

22 31. On April 5, 2017, and April 10, 2017, the Patient did not appear at scheduled follow-
23 up visits. According to the progress note dated April 10, 2017, the follow-up was for a
24 "dimpleplasty" performed on "03/30/2017." The Patient reportedly had post-surgical
25 complications and was treated by subsequent providers.

26 32. The medical chart also contained:

27 a. A signed, "shorter version" informed consent form for a "facial lipoma," dated
28 March 30, 2017. The form was a single page and devoid of details regarding the surgery,

1 alternative treatments, and specific or general risks.

2 b. A billing form for the costs associated with the MIKO Surgery Center. The bill
3 documented charges of \$14,445.00 attributed to the excision, and \$2,293.00 attributed to the
4 wound repair. The total due for the surgical center costs was \$16,738.00.

5 c. A second bill for Respondent's charges for the procedure was also contained in
6 the chart. Respondent's charges were \$8,667.00 attributed to the excision, and \$1,376.00
7 attributed to the wound repair, for a total of \$10,043.00.

8 d. Pre-surgical pictures of the Patient taken front-facing and left and right profile.
9 The pictures included both a resting face and a wide smile. The pre-surgical pictures do not show
10 a mass on either side of the face.

11 e. Post-surgical pictures of the Patient taken front-facing and left and right profile.
12 The pictures included both a resting face and a wide smile. The post-surgical pictures show that
13 bilateral, angled creases were made on the Patient's cheek, extending from approximately the
14 cheekbone to the middle of the chin. The creases were partially covered with surgical tape and
15 appear to be longer than the 1.5 cm incision attributed to the excision that is documented in the
16 surgical report.

17 33. On or about April 25, 2018, the Board received a report from Respondent's
18 malpractice insurer pursuant to California Business and Professions Code section 801.01,
19 subdivision (b), subsection (1). The report documented that a medical malpractice suit filed by
20 the Patient against Respondent was settled. The report states, "On 3/30/2017, the insured
21 performed a dimpleplasty on a 36-year-old female patient. The patient subsequently developed
22 facial cellulitis and was treated by others."

23 34. During an interview with an investigator for the Board, held on August 20, 2020,
24 Respondent admitted that he performed a dimpleplasty on the Patient.

25 35. The chart is internally inconsistent with respect to the procedure that Respondent
26 actually performed.

27 Respondent's Corporate Practice of Medicine

28 36. On or about August 19, 2013, Respondent filed Articles of Incorporation of a General

1 Stock Corporation with the California Secretary of State on behalf of MIKO Surgery Center.
2 Respondent appears to be the sole shareholder of this corporation. As of the date of filing of this
3 Accusation, the Board had not issued a fictitious name permit to MIKO Surgery Center.

4 37. Respondent appears to practice under the corporate name MIKO Plastic Surgery. As
5 of the date of filing of this Accusation, the Board had not issued a fictitious name permit to
6 MIKO Plastic Surgery.

7 38. On or about October 19, 2015, Respondent filed Articles of Incorporation of a
8 General Stock Corporation with the California Secretary of State on behalf of MIKO Anesthesia
9 Group. Respondent appears to be the sole shareholder of this corporation. As of the date of filing
10 of this Accusation, the Board had not issued a fictitious name permit to MIKO Anesthesia Group.

11 **FIRST CAUSE FOR DISCIPLINE**

12 (Making False Representations)

13 39. By reason of the facts alleged above in Paragraphs 20 through 38, Respondent is
14 subject to disciplinary action under California Business and Professions Code section 2234,
15 subdivision (a), and section 2261, by making false representations in the Patient's medical records
16 and making false representations to the Patient's health insurance company. The circumstances
17 are as follows:

- 18 a. Respondent's initial consultation with the Patient was for an
19 abdominoplasty.
- 20 b. Respondent subsequently created medical records for a ventral hernia
21 surgery and scar revision procedure.
- 22 c. A pre-surgical CT scan uncovered no evidence of a hernia.
- 23 d. A pre-surgical examination uncovered no evidence of a hernia. The
24 record of the pre-surgical examination indicates that the impending procedure was "elective."
- 25 e. Prior to surgery, Respondent provided the Patient with detailed informed
26 consent forms for the abdominoplasty and fat transfer procedures. The Patient executed the
27 detailed informed consent forms.
- 28 f. Prior to surgery, Respondent provided the Patient with a single page

1 informed consent form for the ventral hernia surgery. This informed consent form was devoid of
2 information necessary for a patient to consent to the procedure knowingly.

3 g. Respondent documented in a surgical report that he performed a ventral
4 hernia and scar revision surgery on December 26, 2016.

5 h. Respondent submitted or caused to be submitted, bills for services
6 attributed to the ventral hernia and scar revision surgery provided by MIKO Surgery Center,
7 MIKO Plastic Surgery, and MIKO Anesthesia.

8 i. Respondent consulted with the Patient on March 30, 2017, regarding a
9 dimpleplasty.

10 j. A pre-surgical checklist indicates that the Patient executed the necessary
11 consent form for the dimpleplasty.

12 k. A MIKO Surgery Center form, dated March 31, 2017, documents the
13 chief complaint and present illness as "bilateral cheek lipoma."

14 l. Respondent documented that he performed an "excision of facial mass
15 with complex closure."

16 m. The follow-up appointment was for a dimpleplasty procedure.

17 n. The pre-surgical photos do not exhibit bilateral or unilateral mass.

18 o. The post-surgical photos do not evidence that a bilateral or unilateral
19 mass was removed from the Patient's face. Rather, the photos indicate that a dimpleplasty
20 procedure was performed.

21 p. Respondent submitted or caused to be submitted, bills for services
22 attributed to "excision of facial mass with complex closure" provided by MIKO Surgery Center,
23 MIKO Plastic Surgery, and MIKO Anesthesia.

24 q. The Patient filed a medical malpractice suit against the Respondent for
25 complications relating to the dimpleplasty procedure. The Board was advised that the suit was
26 ultimately settled.

27 r. During an interview with an investigator for the Board, held on August
28 20, 2020, Respondent admitted that he performed a dimpleplasty on the Patient.

1 s. Respondent knows that insurance companies generally do not cover costs
2 related to an insured's elective cosmetic procedures.

3 t. Respondent charged the Patient's insurance company exorbitant fees for
4 the stated surgeries.

5 **SECOND CAUSE FOR DISCIPLINE**

6 (Corporate Practice of Medicine Without a Fictitious Name Permit)

7 40. By reason of the facts alleged above in Paragraphs 20 through 38, Respondent is
8 subject to disciplinary action under California Business and Professions Code, sections 2334,
9 subdivision (a); 2285, and California Code of Regulations, Title 16, sections 1344, subdivisions
10 (a) and (b); and 1350.2, subdivision (c); in that Respondent practiced medicine without a
11 fictitious name permit by performing surgeries on the Patient under the name MIKO Plastic
12 Surgery, by performing the surgeries at MIKO Surgery Center, and by providing anesthesiology
13 services through MIKO Anesthesia Group.

14 **THIRD CAUSE FOR DISCIPLINE**

15 (Using an Unapproved Fictitious Name

16 in the Advertising of the Practice of Medicine)

17 41. By reason of the facts alleged above in Paragraphs 20 through 38, Respondent is
18 subject to disciplinary action under California Business and Professions Code, sections 2234,
19 subdivision (a), 2285, and California Code of Regulations, Title 16, sections 1344, subdivisions
20 (a) and (b), in that Respondent used unapproved fictitious names in signage and/or advertising
21 materials for MIKO Plastic Surgery, MIKO Surgery Center, and MIKO Anesthesia Group.

22 **FOURTH CAUSE FOR DISCIPLINE**

23 (Commission of Dishonest or Corrupt Acts)

24 42. By reason of the facts alleged above in Paragraphs 20 through 35, and 39, Respondent
25 is subject to disciplinary action under California Business and Professions Code, section 2234,
26 subdivision (e), in that Respondent created fraudulent medical records and submitted bills to the
27 Patient's insurance company based upon the information in the records, and the charges billed for
28 the procedures were exorbitant.

1 **FIFTH CAUSE FOR DISCIPLINE**

2 (Failure to Maintain Accurate Medical Records)

3 43. By reason of the facts alleged above in Paragraphs 20 through 35, and 39, Respondent
4 is subject to disciplinary action under California Business and Professions Code, section 2266, in
5 that Respondent created fraudulent medical records and submitted bills to the Patient's insurance
6 company based upon the information in the records. Additionally, the chart contained no
7 document that provided the medical indication to perform a ventral hernia surgery, a scar revision
8 procedure, or excision. The chart is internally inconsistent with respect to the procedures that
9 Respondent actually performed.

10 **SIXTH CAUSE FOR DISCIPLINE**

11 (Gross Negligence)

12 44. By reason of the facts alleged above in Paragraphs 20 through 35, 39, and 43,
13 Respondent is subject to disciplinary action under California Business and Professions Code
14 section 2234, subdivision (b), by creating and maintaining medical records of the Patient's care
15 and treatment that fail to establish the necessity for the stated surgeries and are internally
16 inconsistent as to the type and date of the procedures performed.

17 **SEVENTH CAUSE FOR DISCIPLINE**

18 (Repeated Negligent Acts)

19 45. By reason of the facts alleged above in Paragraphs 20 through 39, and 43, Respondent
20 is subject to disciplinary action under California Business and Professions Code section 2234,
21 subdivision (c), in that:

22 a. Respondent created and maintained medical records of the Patient's care
23 and treatment that failed to establish the necessity for the stated surgeries and were internally
24 inconsistent as to the type and date of the procedures performed, and

25 b. Respondent practiced, and continues to practice, under a corporate name
26 without obtaining a fictitious name permit for MIKO Surgery Center, Miko Plastic Surgery, and
27 MIKO Anesthesia Group.

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4. Taking such other and further action as deemed necessary and proper.

DATED: **APR 22 2021**



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California

Complainant

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